

as  
could submitted the erroneous bid, both the erroneous bid and the bid submitted in response to the erroneous bid.--

**REMARKS**

The Office Action dated September 27, 2000 (Paper No. 7) has been carefully reviewed and the foregoing amendments made in response thereto. Reconsideration of the grounds of objection and rejection is respectfully requested in view of the above amendments and the remarks herein.

**Summary of the Office Action**

Claims 77, 82-84, 89-91, 97, 99, 102-104 and 112 are rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Pat. No. 6,058,379 to Odom et al. (*Odom*). Claims 97, 99, 110 and 112 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Pat. No. 4,799,156 to Shavit et al. (*Shavit*). Claims 78-81, 92-96 and 105-109 are rejected under 35 U.S.C. § 103(a) as being unpatentable over the Odom patent in view of U.S. Pat. No. 5,862,223 to Walker et al. (*Walker*) Claims 101 and 114 are rejected under 35 U.S.C. § 103(a) as being unpatentable over *Shavit*.

Claims 85-88 are allowed.

Claims 98, 100, 111 and 113 are objected to as being dependent upon a rejected claim base.

Applicants have canceled claims 77-78, 80, 82, 84, 89-92, 96-97, 99, 101-105, 109-110, 112 and 114.

Applicants have amended claims 79, 81, 83, 93-95, 102 and 106-108 in order to more clearly define the invention.

Applicants have added new claims 115-156.

**Independent Claims 98 and 111**

The Examiner stated that claims 98, 100, 111 and 113 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Accordingly, claims 98 and 111 have been rewritten in independent form including all of the limitations of the base claims and any intervening claims. Claims 100 and 113 depend from amended allowable claims 98 and 111.

**Independent Claims 83, 95 and 108**

Previous Claim 83 was rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Pat. No. 6,058,379 to Odom et al. (*Odom*). Previous Claims 95 and 108 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *Odom*, further in view of U.S. Pat. No. 5,862,223 to *Walker et al.* (*Walker*).

The Office Action asserts that *Odom* '379 teaches all the limitations of claim 83 at Col. 6, lines 46-48. However, *Odom* '379 does not disclose the step of determining whether said bid price is better than a market leading bid by at least a predefined positive percentage, as required

by amended claim 83. *Odom* '379 only teaches that irrelevant bids are not sent to the server, where "irrelevant bids may be bids that are less than the current best bid". As the Examiner stated in the Office Action on page 5, "*Odom* fails to teach the steps of ... determining the bid within the bid [sic] is within a predefined percentage and predefined price of previous bid from the bidder, historical price or previous bid for the lot (or any object of monetary value), historic price for the lot or previous price."

Claim 83 requires determining whether the bid is better than a market leading bid by at least a predefined positive percentage. At most, *Odom* suggests not sending bids that fail to meet a particular threshold, i.e., less than the current best bid, to the server. Accordingly, in the case of *Odom*, any bid that beats the current best bid would be forwarded to the auction. In the case of claim 83, a bid must be within a predefined positive percentage of the best bid, before being submitted to the auction. Thus, in contrast to *Odom*, in claim 83, if the bid beats the best bid by more than the predetermined percentage, the bid may be rejected by the auction. It is respectfully submitted that this feature in claim 83 – and, in particular, the rejection of some bids that may in fact beat a market-leading bid – is not shown or suggested by the cited references.

Similarly, in the method of claim 95, a determination is made as to whether a bid is "better than a previous bid" either by a predefined positive percentage or price, before the bid is accepted. Again, in this claim, if the bid beats the best bid by more than the predetermined positive percentage/price, the bid may be rejected by the auction. Again, it is respectfully submitted that this feature in claim 95 – and, in particular, the rejection of some bids that may in fact beat a market leading bid – is not shown or suggested by the cited references. This feature is

similarly present in claim 108, and accordingly, it is believed that claim 108 is patentable for the reasons expressed above for claim 95.

**Independent Claims 79, 93 and 106**

With respect to previous independent claims 79, 93 and 106, the Office Action asserts that Col. 37, lines 29-31 of *Walker* teaches a method of limiting bids based on fail-safe criteria, or bidding rules, such as excluding bids outside a predefined percentage and predefined amount. However, *Walker* '223 only teaches "bidding rules ... such as excluding bids above or below a predetermined amount." (Col. 37, lines 29-30)

The Office Action asserts on Page 6, lines 4-9, that "it would have been obvious to implement bidding rules ... which include claimed limitations of comparing the bid to various predetermined amounts as defined in claims 93-96 to determine eligibility of the bids ... because it would limit the number of qualified bids to a manageable level and reduced complexity of auction by reducing the total number of bids." Applicants respectfully traverse this rejection.

Claims 79, 93 and 106 all require that the bid not be better than a previous bid by the same bidder by at least a predefined positive percentage and/or price, before acceptance of the bid into the auction. This limitation is directed to a method of establishing inner and outer "fences" for a bidder. Thus, in claims 79, 93 and 106, the bid of a given bidder may rejected simply because it beats a previous bid of the same bidder by too much (i.e., by more than the predefined positive percentage/price). Again, the concept of rejecting a bid simply because it is, in essence, too much better than the last bid, is not shown or suggested by the cited references.

Accordingly, it is believed that independent claims 79, 93 and 106 are patentable over the cited references.

**Independent Claims 81, 94 and 107**

Claims 81, 94 and 107 all require that the bid be within a threshold defined by a historical price. Neither *Odom* '379 nor *Walker* '223 teach establishing a "reserve price" based on historical bidding information. A reserve price is a non-arbitrary amount that is typically determined by the buyer or sponsor of the auction. It may represent an estimated "switching cost" for the buyer to switch to a different supplier. The buyer or sponsor of the auction will not award a supply contract to a bidder that does not bid at least as low as the reserve price.

The "threshold defined by a historical price" of claims 81, 94 and 107 is a reserve price that is established by considering the historical price. By not allowing bids that do not meet the reserve price, the auction of the present invention prevents irrelevant bids from entering the market. Accordingly, these claims are also believed to be allowable over the art of record.

**CONCLUSION**

In view of the foregoing, it respectfully submitted that all independent claims are in condition for allowance, and that each dependent claim is allowable because it depends from an allowable base claim. Applicants therefore respectfully request timely allowance of claims 79, 81, 83, 85-88, 93-95, 98, 100, 106-108, 111, 113 and 115-156.

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If there are any other fees due in connection with the filing of this response, please charge the fees to our Deposit Account No. 50-0310. If a fee is required for an extension of time under 37 C.F.R. 1.136 not accounted for above, such an extension is requested and the fee should also be charged to our Deposit Account.

The Examiner is invited to contact the undersigned at 202-467-7053 to discuss any matter concerning this application.

Respectfully submitted,

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